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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 MARCIANO PLATA, et al.,

12 *Plaintiffs,*

13 v.

14 ARNOLD SCHWARZENEGGER, et al.,

15 *Defendants.*  
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Case No. C01-1351 TEH

**DECLARATION OF SUZANNE M.  
AMBROSE IN SUPPORT OF  
RECEIVER'S SECOND  
SUPPLEMENTAL REPORT RE  
PHYSICIAN CLINICAL COMPETENCY  
DETERMINATION POLICIES AND  
PROCEDURES**

1 I, Suzanne M. Ambrose, declare as follows:

- 2 1. I am the Executive Officer for the State Personnel Board (hereinafter SPB) responsible  
3 for implementing the civil service laws of the State of California and for overseeing all  
4 operations of the SPB, including the Appeals Division. The Appeals Division employs  
5 administrative law judges, analysts, and the requisite supervisory and support staff to  
6 receive appeals from applicants to and employees within the State civil service system. In  
7 particular, such appeals include disciplinary actions taken against state employees.
- 8 2. In August 2008, I discussed with Receiver Clark Kelso funding for the physician  
9 discipline process (PPEC) ordered by this court. During that meeting, I indicated to  
10 Receiver Kelso that SPB would be submitting a Budget Change Proposal (BCP)  
11 requesting authority to collect reimbursements from the Receiver for up to \$715,000  
12 which would include funding for up to one Administrative Law Judge position, one legal  
13 secretary position and a 0.6 analyst position, in addition to the costs associated with  
14 retaining physicians to sit on the medical review panels. I explained that the Receiver's  
15 Office would only be billed for actual costs associated with the PPEC process. Because  
16 these positions are reimbursable rather than general funded, SPB needs to ensure that the  
17 actual workload materializes and will be permanent workload before hiring permanent,  
18 full-time civil service employees. Therefore, the SPB would utilize part-time or retired  
19 annuitant staff on an as-needed basis, depending upon the volume of the workload. I  
20 explained that if the projected workload does not materialize, then the Receiver will not  
21 be billed for the maximum amount and the SPB will not receive reimbursements for the  
22 maximum amount. In other words, "reimbursement authority" is the authorization to  
23 receive funds up to that amount; it is not actual funding. I expressed my concern to  
24 Receiver Kelso that his counsel Linda Buzzini was questioning the reimbursement  
25 amount proposed by SPB and assured him that the Receiver's Office would only be billed  
26 for actual and reasonable costs incurred, which may be less than the total amount of  
27 authority requested. The purpose of this discussion was to obtain a commitment from  
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1 Receiver Kelso that his office would support SPB's BCP when questioned by the  
2 Department of Finance and the Legislature. I informed Receiver Kelso that if he would  
3 not support the BCP, SPB would not submit it since approval was contingent upon his  
4 support. Receiver Kelso indicated that he would agree to reimburse the SPB for  
5 reasonable and actual costs of the program, but that we needed to agree on what  
6 constituted "reasonable" costs. I told him that we would provide an itemized breakdown  
7 of our projections.

- 8 3. I subsequently had a conversation with Linda Buzzini and reiterated my conversation  
9 with the Receiver. I told her that SPB staff would work with her to reach agreement on  
10 the reasonable costs for the program.
- 11 4. Based on the Receiver's commitment to reimburse SPB for the reasonable and actual  
12 costs of the PPEC program, SPB submitted a BCP to the Department of Finance, in order  
13 to meet the deadline for 2009/2010 BCPs. The amount of the BCP could be modified  
14 downward if the parties subsequently agreed on a lower amount. At the request of the  
15 Department of Finance, SPB staff repeatedly requested that CDCR and/or the Receiver  
16 provide verification to the Department of Finance that SPB would be reimbursed for its  
17 services in connection with the medical quality hearings.
- 18 5. As stated in SPB Chief Administrative Law Judge Paul Ramsey's declaration filed on  
19 September 19, 2008 (Document 1504), SPB provided the Receiver's staff with an  
20 itemized breakdown of the projected costs and had agreed on a 7.5% overhead fee. (See  
21 Decl. of Paul Ramsey, paragraph 12.) SPB further agreed to charge the Receiver for the  
22 cost of the services of SPB ALJs at the rate of \$122 per hour, which was less than the  
23 \$187 per hour charged by ALJs employed by the California Office of Administrative  
24 Hearings (OAH).
- 25 6. Prior to November 3, 2008, Mr. Ramsey informed me that Ms. Buzzini was unresponsive  
26 to his further attempts to resolve the remaining issues regarding cost and indemnification.
- 27 7. On November 3, 2008, the SPB held a board meeting in Sacramento, California. Ms.
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1 Buzzini was present during the open session of that meeting. During the meeting, SPB  
2 President Sean Harrigan asked Ms. Buzzini about the status of the PPEC process. She  
3 indicated that the parties had still not agreed on the projected costs of the program.

4 8. At the end of the open session of the meeting, I briefly spoke with Ms. Buzzini, who  
5 suggested that we meet to resolve the cost issue.

6 9. My assistant scheduled a lunch meeting for November 13, 2008 with Ms. Buzzini to  
7 resolve the cost issue

8 10. On November 10, 2008, I received a letter from John Hagar, Chief of Staff for the  
9 Receiver, addressed to Michael C. Genest, Director of the Department of Finance, and  
10 myself, indicating that "SPB has grossly over-estimated the staffing and funding  
11 necessary" and "the Department of Finance has taken the position that the Receiver must  
12 fund the SPB out of its existing budget." Based on those two unresolved issues, Mr.  
13 Hagar indicated that "the Receiver cannot support SPB's BCP regarding Clinical  
14 Competency Hearings." (See Attachment 1.)

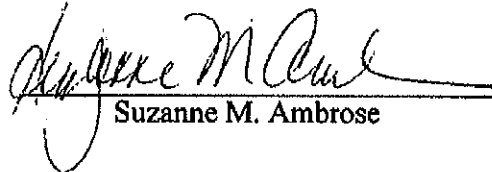
15 11. I was informed on November 12, 2008, that, based on the Receiver's refusal to support  
16 SPB's BCP, the Department of Finance denied the BCP.  
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1 12. SPB is unable to fund the PPEC process without reimbursement from the Receiver.

2 Without an approved BCP, SPB has no authority to collect reimbursements from the  
3 Receiver in the projected amount for the program. Without funding, SPB is unable to  
4 implement the court ordered PPEC process.

5  
6 I declare under penalty of perjury under the laws of the State of California that the  
7 foregoing is true and correct.

8 Dated: November 20, 2008

  
Suzanne M. Ambrose

**CALIFORNIA  
PRISON HEALTH CARE  
RECEIVERSHIP CORP.**

J. Clark Kelso  
Receiver

November 10, 2008

Michael C. Genest, Director  
Department of Finance  
State Capitol, Room 1145  
Sacramento, CA 95814-4998

Suzanne Ambrose, Executive Officer  
California State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

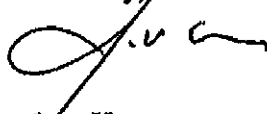
Dear Mr. Genest and Ms. Ambrose,

It is my understanding that the State Personnel Board (SPB) has submitted a Budget Change Proposal (BCP) for 1 Administrative Law Judge II, 1 Legal Secretary, .6 Analyst, and \$715,000 to fund *Plata* Clinical Competency Hearings. This letter affirms that the Receiver does not support SPB's BCP for the following reasons:

- a) SPB has grossly over-estimated the staffing and funding necessary for Clinical Competency determinations and at the same time has not considered, in its submission, the significant workload reduction that the Professional Practice Executive Committee (PPEC) process will bring to SPB.
- b) The Department of Finance has taken the position that the Receiver must fund the SPB request out of its existing budget, disregarding the fact that the State failed for years to establish an adequate peer review process.

Until the above issues are resolved, the Receiver cannot support SPB's BCP regarding Clinical Competency Hearings.

Sincerely,



John Hagar  
Chief of Staff

cc: J. Clark Kelso, Receiver, California Prison Receivership  
Linda Buzzini, Staff Attorney, California Prison Receivership  
Martin Dodd, Counsel for the Receiver, Futterman & Dupree LLP  
Joyce Hadnot, Chief Clinical Operations Support Branch, California Prison Health Care Services

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**ATTACHMENT 1**